

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00925R

Parcel No. 141/00528-001-000

Treasa Mitchell,
Appellant,

vs.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on June 30, 2016. Treasa Mitchell was self-represented. Assistant Polk County Attorney Mark Taylor represented the Board of Review.

Mitchell is the owner of a residential, one-story, manufactured home located at 104 Park Avenue NE, Mitchellville. It was built in 2005 and has 1740 square feet of above-grade finish and a full basement. It also has a shed, and a two-car detached garage built in 1990. The site is 0.380 acres.

The property's January 1, 2015, assessment was \$132,600 allocated as \$27,200 in land value and \$105,400 in improvement value.

On her protest to the Board of Review, Mitchell marked the space for a claim that the property has suffered a downward change in value since the last assessment under Iowa Code section 441.35. The protest also referred to external issues that she believes affect the market value of her property. Mitchell was essentially asserting an over assessment claim under section 441.37(1)(a)(1)(b). *See also Dedham Cooperative Ass'n., v. Carroll Cnty. Bd. of Review*, 723 N.W.2d 449, 2006 WL 1750300 (Iowa Ct. App. 2006) (unpublished) (indicating that in an assessment year, a claim of change in value is akin to an over assessment claim). The Board of Review reduced

the assessment to \$127,900. Mitchell then appealed to PAAB, asserting the correct fair market value is \$100,000.

Findings of Fact

Craig Arterburn testified on Treasa Mitchell's behalf. Arterburn stated there are several external issues affecting the subject property. There are drainage issues on the subject site because of collapsing culverts in the ditch along the street. There is significant truck traffic due to a nearby co-op; and the co-op installed a large industrial blower directly to the rear of the subject property, which is an eyesore and contributes significant noise pollution making enjoyment of the back yard impossible. Mitchell also testified that a significant amount of corn dust is dispersed from the co-op causing concerns with air quality, odors, and build-up that dirties windows and clogs the air conditioner and other mechanicals of the subject property. The certified record includes photos of these external issues that Mitchell submitted to the Board of Review.

Mitchell did not submit any evidence of the fair market value of her property, such as an appraisal, comparable sales adjusted for differences, or a cost analysis, which is necessary to support a fair market value claim.

Director of Litigation, Amy Rasmussen, testified for the Board of Review. She testified that the external influences that affect the subject property were considered in the assessment. However, after reviewing the case, she noted that the consideration for the external factors was applied as a functional obsolescence adjustment, which means that only the improvement value was adjusted. Rasmussen explained that because the concerns were outside of the subject property the obsolescence should have been identified as economic obsolescence, which affects both the land value and the improvement value. Correcting this error, results in a total assessment of \$126,000, which she recommends should be the property's correct fair market value. (Ex. D).

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure

Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Mitchell asserts a neighboring co-op affects the market value of her property because of heavy truck traffic, increased noise, and poor air-quality due to corn-dust. However, she did not submit any evidence of market value, such as a cost analysis or an appraisal, to demonstrate the property's assessment exceeds its market value. The Board of Review discovered an error in the cost calculations for the subject's 2015 assessment. Correcting the error reduces the total assessed value to \$126,000, allocated as \$25,800 in land value and 100,200 in improvement value. We find this is the only evidence in the record of the fair market value of the subject property.

Order

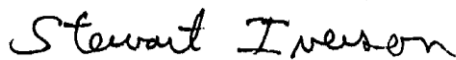
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is modified to \$126,000.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this day 19th day of July, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

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Mark Taylor by eFile

Polk County Auditor